

Correctional or Rehabilitation Facility Subchapter

Subchapter at a Glance

In 1997, the Legislature enacted the Correctional or Rehabilitation Facility Subchapter and gave local officials (county and city governing bodies) authority to deny consent for the location of certain correctional or rehabilitation facilities proposed to be built or operated within 1,000 feet of a residential area, school, public park, or place of worship. The Subchapter applies to correctional facilities, such as state jails, halfway houses, probation and parole offices, and residential facilities operated, or contracted for, by the Texas Department of Criminal Justice (TDCJ), the Texas Youth Commission (TYC), or other political subdivisions of the state. These provisions have only been used on a few occasions due to the slowdown in the expansion of Texas' correctional system. This Subchapter provides for the Sunset Commission to review these provisions before their expiration on September 1, 2003.

Agency Heads

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Recommendation

1. Address Problems Associated With the Notice and Public Meeting Requirements Under the Correctional or Rehabilitation Facility Subchapter, and Re-Evaluate it as Part of the Texas Department of Criminal Justice Sunset Review in 2009.

Issue 1 | **While the Correctional or Rehabilitation Facility Subchapter Should be Continued, Its Notice Requirements Need to Change.**

Key Findings

- Limited use of the Subchapter made evaluating its need and effectiveness difficult.
- The Subchapter does not provide an effective mechanism to inform county and city governing bodies that the State is proposing to construct or operate a correctional or rehabilitation facility in their area.
- In some instances, the Subchapter requirement for a separate public meeting for the review process may duplicate other statutory requirements for similar public meetings.

The Subchapter provides the opportunity for local officials to participate in decisions to locate certain correctional or rehabilitation facilities in their communities. In practice, however, this provision has rarely been used due to the recent slow-down in the expansion of the Texas correctional system. Despite this lack of experience, problems have been found with the public notice, timing, and hearing requirements of the Subchapter. Continuing the Subchapter would ensure local officials are provided notice pro-actively by the State in order to better participate in decisions affecting local communities, and would provide a better basis for judging the effect of the Subchapter on the State's ability to locate these facilities, should construction increase in the future.

Recommendations**Change in Statute****1.1 Continue the Correctional or Rehabilitation Facility Subchapter and re-evaluate it as part of the Sunset review of the Texas Department of Criminal Justice in 2009.**

By continuing the Subchapter and removing its Sunset date, the Subchapter could be incorporated as part of the next Sunset review of TDCJ, scheduled for 2009. Reviewing the Subchapter in six years would provide another look at the impact of the local veto authority to determine if any further problems arise, particularly if significant expansion or relocation of correctional or rehabilitation facilities occurs.

1.2 Require the State, political subdivisions of the state, or their contractors, to provide county and city governing bodies notice of the intent to construct or operate a correctional or rehabilitation facility regulated by the Subchapter.

The State and its political subdivisions should mail notice to local governing bodies in the area when the State is proposing to locate a correctional or rehabilitation facility. The 60-day period for local review would begin automatically on receipt of this notice. By requiring notice to local governing bodies, these officials would not risk losing the opportunity to evaluate if a facility is in the community's best interest.

1.3 Allow a public meeting held by the State under the Government Code to satisfy the meeting required under the Subchapter.

This recommendation would allow the requirement for TDCJ to hold a public meeting under Government Code to satisfy the public meeting provisions under the Subchapter. As a result, TDCJ could better coordinate public meetings with county and city governing bodies and reduce duplication of those meetings.

Fiscal Implication Summary _____

These recommendations would have no fiscal impact to the State.

